

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ESTABLISHMENT OF THE)	Administrative Order
COMMITTEE ON THE IMPACT OF)	No. 2012 – <u>22</u>
WIRELESS MOBILE TECHNOLOGIES)	
AND SOCIAL MEDIA ON COURT)	
PROCEEDINGS)	
)	

New and affordable wireless mobile technologies have caused an unprecedented growth in the number of hand-held “smart” devices, laptops, and tablets used in this country. These technologies are shaping how we communicate, shop, bank, work, and inform and educate ourselves.

These devices also provide immediate access to information. Using social media sites such as Facebook, Twitter, and LinkedIn, information may be shared with business colleagues, clients, friends, and families. Mobile and wireless devices may be accessed nearly anywhere and anytime for email, phone and video calls, text messages, internet browsing, taking pictures and videos, research, blogging, and posting to social media sites.

The Judiciary uses technology to make courts more efficient, productive, and accessible. However, judges face unique challenges as they balance due process rights of parties and defendants with legitimate and sometimes necessary personal and professional uses of electronic devices in the courtroom and the courthouse. Guidance on balancing these sometimes competing interests through rules, policies, code sections, and jury instructions is needed.

New technologies present new security challenges as well. Arizona courts have rules governing cameras in the courtroom. Most rules allow media cameras in the courtroom with the judge’s permission. Today, many devices such as laptops, cell phones, and tablets can take photos and videos. In Arizona, Supreme Court Rule 122 forbids photographic or video coverage of jurors in a manner that permits recognition of individual jurors by the public. Additionally, Rule 122 permits a judge to “limit or prohibit electronic or still photographic coverage... [if] there is a likelihood of harm arising...” The safety of those who participate in the judicial process is essential to serving the citizens and doing justice in all cases. Rule 122 may need revision to provide additional guidance to judges and other court personnel on how to respond appropriately to legitimate concerns about the use of cameras or other recording devices in the courtroom or the courthouse. Social media also raises ethical questions for judges and court personnel. By its design, social media provides a forum for dialogue between and among those who are invited or, of their own volition, choose to participate in an electronic conversation.

Facebook “friends” or Twitter “followers” can be as few as several to as many as hundreds or tens of thousands depending on the person, the cause, or business. There are times when the personal and professional lives of judges and court personnel intersect, online, with the lives of litigants, witnesses, jurors, and lawyers in the community they serve. Rules and codes of ethical conduct address ordinary circumstances related to friendships, acquaintances, and such. But existing rules and code sections do not specifically address whether ethical constraints or obligations to disclose relationships apply to social media sites.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the Committee on the Impact of Wireless, Mobile Technologies and Social Media on Court Proceedings (“Committee”) is established as follows:

1. **Purpose:** The Committee shall review current Supreme Court rules, the Arizona Code of Conduct for Judicial Employees, the Arizona Code of Judicial Administration, jury instructions, and any other authority it deems appropriate and prepare recommendations that

- (a) Propose Supreme Court rules, code sections, policy provisions, or jury instructions it believes necessary or appropriate to provide direction to court employees on the use of wireless mobile technology by lawyers, jurors, media, witnesses, and the public attending or participating in court proceedings;
- (b) Propose rules, code sections, or policy provisions that will provide direction to judges, court security officers, and personnel on possession and use of technology with the capability to take photos and electronically record videos by court participants and those attending court proceedings; and
- (c) Identify ethical questions that should be addressed by the Judicial Ethics Committee, the Judicial Conduct Commission, or any other appropriate committee of the Supreme Court.

The Committee also shall suggest judicial officer and court staff training to implement its recommendations.

2. **Membership:** The individuals listed in Appendix A are appointed as members of the Committee. The Committee shall continue as long as necessary to complete its work, including the filing of any rule petition not later than January 2013. The Chief Justice may appoint additional members and extend the expiration date of the Committee, if necessary.

3. **Meetings:** Committee meetings shall be scheduled at the discretion of the Chair. All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings.

4. **Reports:** The Committee shall submit its report and recommendations to the Arizona Judicial Council not later than November 30, 2012.

5. **Staff:** The Administrative Office of the Courts shall provide staff for the Committee and shall assist the Committee in developing recommendations and in preparing any necessary reports and proposed Supreme Court rule or code changes.

Dated this 7th day of March, 2012.

REBECCA WHITE BERCH
Chief Justice

ATTACHMENT: Appendix A

APPENDIX A

MEMBERSHIP LIST COMMITTEE ON THE IMPACT OF WIRELESS, MOBILE TECHNOLOGIES AND SOCIAL MEDIA ON COURT PROCEEDINGS

Chair

Hon. Robert M. Brutinel
Arizona Supreme Court

Members

General Jurisdiction Judges

Representative from Maricopa

Hon. Janet Barton

Representative from Pima

Hon. Scott Rash

Representative from Non-Metro County

Hon. James Conlogue

Cochise County

Limited Jurisdiction Courts

Justice Court Judge

Hon. Dan Dodge

Highland Justice Court, Maricopa County

Municipal Court Judge

Hon. Eric Jeffery

Assistant Presiding Judge

Phoenix Municipal Court

Court Administrator

Marla Randall

Superior Court/Limited Jurisdiction Court

Administrator, Navajo County

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Robin J. Phillips

Web Managing Editor

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Clerk of the Superior Court and

Arizona Judicial Council Representative

Hon. Michael Jeanes

Clerk of Superior Court in Maricopa County

State Bar Representative

Joe Kanefield

Jury Commissioner

Kathy Pollard

Jury Commissioner

Pima County

Commission on Judicial Conduct

George A. Riemer

Executive Director

Judicial Ethics Advisory Committee

Hon. Margaret Downie

Court of Appeals, Division 1, Chair

Maricopa County

Court Security Representative

Robert Lawless

Court Security Manager

Superior Court in Mohave County

Court Public Information Officer

Karen Arra

Court Public Information Officer

Superior Court in Maricopa County

